

Appl. No.: 10/720,023  
Amdt. dated 08/29/2007  
Reply to Final Office Action of May 1, 2007

### **REMARKS/ARGUMENTS**

This is a full and timely response to the final Office Action dated May 1, 2007. A petition for a one month extension is filed herewith extending the response deadline to September 1, 2007. A Request for Continued Examination (RCE) is being filed concurrently herewith. Applicant notes with appreciation the Examiner's thorough examination of the application as evidenced by the Office Action. Applicant would also like to thank the Examiner for taking the time on June 5, 2007 to discuss, by telephone, the types of amendments that may be acceptable as amendments after final.

Prior to the issuance of the present Office Action, Claims 5-16 were pending. Applicant has amended Claim 11 to expedite prosecution and to further clarify the claimed invention. Claims 5-16 remain pending in the present application.

It is respectfully submitted that pending Claims 5-16 are patentable. As such, Applicant respectfully requests reconsideration and allowance of the present claims in light of the following remarks.

#### **Claim Objections**

Applicant notes that the "Office Action Summary" on page 1 of the present office action indicates that Claims 5-10 and 12-16 are objected to; however, the comments on page 2 indicate that these claims are allowed. Applicant believes these claims are in condition for allowance and requests that the Examiner clarify the status of Claims 5-10 and 12-16.

#### **Claim Rejections - 35 USC §102**

As provided in Section 2131 of the MPEP: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Appl. No.: 10/720,023  
Amdt. dated 08/29/2007  
Reply to Final Office Action of May 1, 2007

On page 2 of the Office Action, the Examiner has rejected Claim 11 under 35 U.S.C. §102(e) as being anticipated by *Mann* (U.S. Patent No. 5,514,081). Applicant has amended Claim 11 to include the limitation of “wherein a gap is present between said limb portion and said structural body portion” and “said inflatable member tends to increase tension in said retention member such that said limb is urged towards said structural body portion wherein said gap is reduced”.

Applicant respectfully asserts that *Mann* does not disclose or suggest the limitations of “wherein a gap is present between said limb portion and said structural body portion” and “said inflatable member tends to increase tension in said retention member such that said limb is urged towards said structural body portion wherein said gap is reduced”. Fig. 14 in *Mann* clearly shows that the arm of the user is flush against the exoskeleton frame 76 prior to attachment of the straps. This is consistent with the description of the exoskeleton frame as “setting an elbow of a patient in a variety of fixed positions.” (Column 4, lines 23-26). Thus, *Mann* does not disclose or suggest a gap between the exoskeleton frame and the patient’s arm, and as a result, inflation of the bladder in *Mann* cannot reduce the gap. Because the *Mann* patent does not disclose or suggest each of the limitations now recited in Claim 11, the Applicant respectfully requests the Examiner withdraw this rejection.

### **Allowable Subject Matter**

Applicant notes with appreciation that the Examiner has indicated that Claims 5-10 and 12-16 are allowed.

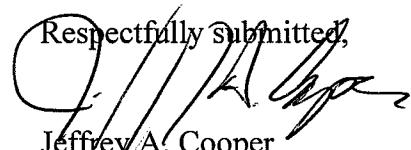
### **Conclusion**

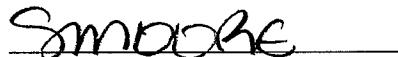
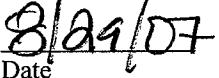
The foregoing is submitted as a full and complete response to the Office Action mailed May 1, 2007. The foregoing amendment to Claim 11, when taken in conjunction with the appended remarks, is believed to have placed the present application in condition for allowance, and such action is respectfully requested.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper.

Appl. No.: 10/720,023  
Amdt. dated 08/29/2007  
Reply to Final Office Action of May 1, 2007

However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,  
  
Jeffrey A. Cooper  
Registration No. 54,757

<p><b>Customer No. 00826</b> <b>ALSTON &amp; BIRD LLP</b> Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Atlanta Office (404) 881-7000 Fax Atlanta Office (404) 881-7777</p>	<p><b>CERTIFICATION OF ELECTRONIC FILING</b> I hereby certify that this paper is being filed via the Electronic Filing System (EFS) to the United States Patent and Trademark Office on the date shown below.  Shana Moore  Date</p>
---	---

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON August 29, 2007.